

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215 and 220, Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215 and 220 of said Code, proposes to amend Section 29.80, Title 14, California Code of Regulations, relating to Gear Restrictions.

Informative Digest/Policy Statement Overview

Under current regulation (Section 29.80(b), Title 14, CCR) spiny lobster and crab may be taken by "baited" hoop nets. Not more than five baited hoop nets may be used by a person, not to exceed a total of 10 baited hoop nets from any vessel. The department proposes removing the word "baited" so that anyone who has more than five hoop nets in their possession while fishing; or more than 10 hoop nets on a vessel are in violation of the law without determining whether they were baited.

The department is also proposing two definitions of a hoop net as indicated in subsection 29.80(b)(1). The definitions encompass the traditional style hoop net that lies flat on the ocean floor as well as the new style hoop net that has the second smaller ring supported above the ocean floor.

It is recommended that these regulation changes become effective April 1, 2011. This will allow the department to inform the public of the change in the regulation and provide a timely transition for those needing to comply with the new regulation.

Traps are illegal to use when taking lobsters. These new hoop net definitions will assist wardens and the public in determining if a device used to take lobsters is considered a trap or a hoop net.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Sierra Room, Lake Natoma Inn, 702 Gold Lake Drive, Folsom, California, on June 24, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hotel Mar Monte, 1111 E. Cabrillo Blvd., Santa Barbara, California, on August 5, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 2, 2010 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 2, 2010. All oral comments must be received no later than August 5, 2010 at the hearing in Santa Barbara, California. E-mail comments sent to any e-mail address other than FGC@fgc.ca.gov does not guarantee the comments' inclusion in the rulemaking package.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Mr. Rob Allen, Enforcement Branch, Department of Fish and Game, (916) 651-9953 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action allows for a better definition of gear restrictions and enforcement, and is economically neutral to business.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

- (c) Cost Impacts on a Representative Private Person or Business:

The proposed action may have a minor economic impact on those who currently sell or possess the new style hoop net which has the ring that is held above the ocean floor when deployed. However, the measurements used to develop the wording for the size of the hoop nets was developed using existing style hoop net measurements.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

- (h) Effect on Housing Costs:

None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective, and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: June 8, 2010

John Carlson, Jr.
Executive Director